

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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STEPHEN A. MILLER,

Plaintiff,

v.

PACIFIC INVESTMENT MANAGEMENT  
COMPANY LLC, et al.,

Defendants.  
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: Case No. 12-CV-4122 (LTS) (JCF)  
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: ECF CASE  
: ELECTRONICALLY FILED  
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**NOTICE OF MOTION TO DISMISS**

PLEASE TAKE NOTICE that, upon the Complaint and the accompanying Memorandum of Law in support of this Motion to Dismiss, Defendants CME Group, Inc., Kathleen Cronin, and Joseph Adamczyk (together, the “CMEG Defendants”), by and through their undersigned counsel, will move this Court, before the Honorable Laura Taylor Swain, United States District Judge, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, Courtroom 11C, for an order dismissing the Complaint with prejudice as to the CMEG Defendants pursuant to Federal Rules of Civil Procedure 8(a), 9(b), and 12(b)(6), and for such other and further relief as the Court may deem just and proper.

**Rule (A)(2)(b) Certification**

Pursuant to Judge Swain’s Individual Practice Rule (A)(2)(b), the CMEG Defendants, through their counsel, certify that they have used their best efforts to resolve informally the matters raised in this Motion. The parties exchanged letters on September 19, 2012, and spoke by phone on September 17, 2012 and September 25, 2012. For the Court’s convenience, the CMEG Defendants have submitted copies of the parties’ respective letters as

attachments to the Declaration of Charles F. Smith. Plaintiff has not previously amended the Complaint, and, in response to the CMEG Defendants' efforts to informally resolve this matter, Plaintiff indicated that he did not wish to do so prior to the filing of this Motion.

Dated: October 4, 2012  
Chicago, IL

Respectfully submitted,

By: /s/ Charles F. Smith

Charles F. Smith, *pro hac vice*  
(charles.smith@skadden.com)  
SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP  
155 North Wacker Drive  
Chicago, IL 60606  
Tel: 312.407.0700  
Fax: 312.407.0411

Jerrold E. Salzman  
(jerrold.salzman@skadden.com)  
Jason T. Manning, *pro hac vice*  
(jason.manning@skadden.com)  
Brandon R. Keel, *pro hac vice*  
(brandon.keel@skadden.com)  
155 North Wacker Drive  
Chicago, IL 60606  
Tel: 312.407.0700  
Fax: 312.407.0411

Lauren E. Aguiar  
(lauren.aguiar@skadden.com)  
Four Times Square  
New York, NY 10036  
Tel: 212.735.2235  
Fax: 917.777.2235

*Counsel for Defendants CME Group, Inc.,  
Kathleen Cronin, and Joseph Adamczyk*

TO: Stephen A. Miller  
83 Waldorf Avenue  
Bridgeport, CT 06605  
*Pro Se Plaintiff*